



## Texas General Land Office-Disaster Recovery

### POLICY NOTICE

To: All CDBG-DR Program Housing Subrecipients,  
Non-Housing Grantees, and Grant Administrators

Subject: Inapplicability of Executive Order 13658 Minimum  
Wage Requirement to CDBG-DR Program Contracts

Effective Date: February 13, 2015

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On February 12, 2014, the President issued Executive Order 13568, *Establishing a Minimum Wage for Contractors*, 79 Fed. Reg. 9851 (Feb. 12, 2014). The order requires federal contractors to pay their workers a minimum wage of \$10.10 per hour effective January 1, 2015, and annual increases thereafter as determined by the Secretary of Labor.

Reports from the field indicate some confusion as to whether the new minimum wage requirement of the order applies to CDBG-DR Program construction contracts. It does not.

The confusion stems from two sources. First, under section 110(a) of the Housing and Community Development Act of 1974, 42 U.S.C. § 5310(a) (2014), the prevailing wage requirements of the Davis-Bacon Act govern all CDBG-DR Program non-housing construction contracts, as well as all housing contracts except those involving rehabilitation of projects that contain seven or fewer units. Second, the Department of Labor has begun to issue Davis-Bacon Act wage decisions that contain the following language: "Executive Order (EO) 13658 establishes an hourly minimum wage of \$10.10 for 2015 that applies to all contracts subject to the Davis-Bacon Act for which the solicitation is issued on or after January 1, 2015."

The latter language is incorrect. By its own terms, Executive Order 13568 covers only "...work performed by parties who contract with the Federal Government...." 79 Fed. Reg. at 9851. The order's implementing regulations likewise make clear that the new minimum wage requirement "...applies to any new contract with the Federal Government...." 29 C.F.R. § 10.3(a) (2014). CDBG-DR Program construction contracts, although subject to the Davis-Bacon Act, are not contracts "with the Federal Government," as that entity is defined by the implementing regulations. *See* 29 C.F.R. § 10.2.

Accordingly, Executive Order 13568 does not govern CDBG-DR Program construction contracts. Contractors should continue to meet their Davis-Bacon Act obligations while paying at least the current \$7.25 per hour minimum wage established by the Fair Labor Standards Act, 29 U.S.C. § 206(a)(1)(C) (2014).

Interested persons who have comments or questions about this Policy Notice may contact their grant managers, or the following responsible CDBG-DR Program manager:

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